

REMARKS

Applicants would initially like to thank the Examiner for the acknowledgment of Applicant's claim of foreign priority under 35 U.S.C. § 119.

By the present amendment, claims 31-48 and 50-68 are now in the application. Claims 1-30, and 49 have been canceled. Claims 31-32, 37, and 39 have been amended. No claims have been added. Reconsideration of the rejection of claims 31-48 and 50-68 and allowance of the same is therefore requested.

Before discussing the individual rejections, some brief comments are in order.

It is relatively well known that telephones have a state in which they are "busy," *i.e.*, a state in which a telephone line is in use. Because the telephone line is in use, the incoming calls will not connect to the destination number, and a signal is sent back to the originator of the call which creates a repeating audible tone (which is recognized universally in the United States as a busy signal). In contrast, when the phone line is not in use, it will receive incoming calls and will not generate a busy signal back to the originating caller. Thus, the status of whether a typical phone is indicated as "busy" is generally based on whether the phone is in use or not. In other words, the telephone is considered busy based only on certain operating states of the telephone, and is not considered busy in other operating states.

Various pending claims recite a relationship which is different from that of normal cellular telephone operations. By way of non-limiting example, claim 40 recites "considering a current operational state associated with the cellular telephone number as busy, regardless of an actual operational state of the cellular device." (emphasis added). Thus, even when the particular cellular telephone is not in use and would ordinarily not

be considered busy, claim 40 requires that such cellular telephone nonetheless be considered busy.

It is well known that some cellular telephones can be programmed to forward an incoming call to another destination when the cellular telephone is in use and thus “busy.” A programmed “divert on busy” instruction to divert incoming calls to voice mail would be a non-limiting example. The invention of various claims, such as claim 40, recite some form of adjustment of the divert on busy instructions. For example, claim 40 recites “associating, at the host network, a primary divert on busy instruction with the cellular telephone number, the divert on busy instruction representing an instruction to divert an incoming call to a communication system on board the aircraft.” In combination with another limitation of claim 40 which recites “considering a current operational state associated with the cellular telephone number as busy, regardless of an actual operational state of the cellular device,” an effective and novel method is created to route incoming cellular telephone calls, in that the cellular telephone phone is considered busy regardless of whether it is or not and the user’s divert on busy instructions are changed to divert incoming calls to the vehicle.

In rejecting claim 40 and other claims, the Examiner has relied upon a combination of Schmidt et al. (“Schmidt”) or Horrer in view of Chambers. In the various rejections, the Examiner agrees that neither the primary Schmidt nor Horrer patents discloses changes to divert on busy instructions, or considers the cellular telephone as busy regardless of its actual state. To supply what is missing from Schmidt or Horrer, the Examiner relies upon Chambers, and particularly paragraph 26 of Chambers for such teachings. That portion of the Chambers document is reproduced below.

[0026] Let us say, by way of example, that the ordinary telephone 9 wishes to communicate with the mobile telephone handset 1. The public switched telephone network 11 first locates, within the terrestrial system A HLR 15 which is uniquely dedicated to the particular mobile telephone handset 1 which is being called. The HLR 15 automatically knows that the mobile telephone handset 1 may be reached through the satellite gateway 13. The public switched telephone network 11 then sets up a two-way communication line 17, within the terrestrial telephone system 7, to join the public switched telephone network 11 and the satellite gateway 13. From that point on the call can proceed as normal. When the call terminates, the public switched telephone network 11 discontinues the two-way communication line 17. The HLR 15 also has an associated call diversion centre 39. Thus, if the call from telephone 9 to handset 1 could not be connected, due, for example to the mobile handset 1 being switched off, or for some other reason, the call can be diverted to a voice mail facility or to another telephone number, under the control of the call diversion centre 39, in a manner known in the art. The call diversion options may be controlled by the user of the mobile handset 1 via the satellite 3 and ground station 5 to achieve conventional call diversion functionality.

The above portion of Chambers does not relate in any way to treating a cellular telephone as busy regardless of its actual operating state. The word “busy” does not even appear in the paragraph. The closest disclosure is that a connection may not form if the telephone is off, but this is not a “busy” state and does not generate a busy signal to the originating caller.

By way of example, suppose that the cellular telephone is on and ready to receive calls. Per its normal operation, the cellular telephone is not in a “busy” state, and normally would not be considered in its busy state. Per the noted language of claim 40, the cellular telephone would be considered busy even though this is not the case.

Nothing in the Chambers reference teaches or suggests that a cellular telephone would be considered busy in this otherwise non-busy state.

Similarly, there is nothing in the above paragraph or any portion of Chambers, which teaches or suggests modifying the divert on busy instructions to direct incoming calls to an aircraft. The last two sentences of Chambers paragraph 26 discuss a divert on busy instruction when the incoming call fails to connect with a user aboard an aircraft, but there is no teaching or suggestion that the divert on busy instruction represents “an instruction to divert an incoming call to a communication system on board the aircraft” such as for example recited in claim 40.

Accordingly, reliance on Chambers for teaching or suggestion of the noted claim 40 terms (and similar limitations as may be present in other claims) is improper. Chambers does not teach or suggest the same, and any rejection based upon such rationale may not be properly maintained.

Applicants now address the individual rejections.

Claims 1-4 and 16-19 have been rejected under 35 U.S.C. § 103 as obvious over Schmidt in view of Chambers. Claims 1-4 and 16-19 have been cancelled, thereby rendering the rejections thereof moot.

Claim 31 has been rejected under 35 U.S.C. § 103 as obvious over Schmidt in view of Chambers. The rejection is respectfully traversed.

Claim 31 as originally filed included the language: “considering a state of a cellular telephone associated with the cellular telephone number as busy, regardless of an actual state of the cellular telephone.” Claim 31 as amended also includes the language: “associating a divert on busy instruction with the cellular telephone number, the divert on

busy instruction representing an instruction to forward an incoming call for the cellular telephone number to the communications system aboard the aircraft.” The Examiner agrees that these limitations are not present in the Schmidt reference. Also, as set forth at length above, these limitations are neither taught nor suggested by Chambers. Neither Schmidt nor Chambers, either alone or in combination, teaches or suggests considering a state of a cellular telephone associated with the cellular telephone number as busy regardless of an actual state of the cellular telephone, or associating a divert on busy instruction with the cellular telephone number that represents an instruction to forward an incoming call for the cellular telephone number to the communications system aboard an aircraft. Claim 31 is accordingly patentably distinct over the applied art. Withdrawal of the rejection of claim 31 and allowance of the same is therefore requested.

Claims 32-39, which depend from claim 31 (either directly or indirectly), have also been rejected under 35 U.S.C. § 103 as obvious over Schmidt in view of Chambers. For at least the reasons discussed with respect to claim 31, these dependent claims are likewise patentably distinct over the applied art. Withdrawal of the rejection to claims 32-39 and allowance of the same is therefore respectfully requested.

Claims 40-48 and 50-68 have also been rejected under 35 U.S.C. § 103 as obvious over various combinations, including Schmidt and Chambers, Horrer and Chambers, and in some cases in further view of McKenna. Each rejection relies upon Chambers for a teaching of (1) modification of the primary divert on busy instruction and (2) setting the state to busy regardless of the actual operating state. As discussed above, Chambers does not teach or suggest these limitations either alone or in combination with the other cited

art. For at least the reasons discussed above, withdrawal of the rejection of these claims and allowance of the same is therefore respectfully requested.

Claim 49 has been rejected under 35 U.S.C. § 102 as anticipated by Horrер.

Claim 49 has been canceled, thereby rendering the rejection thereof moot.

In view of the foregoing, the application is now believed to be in proper form for allowance, and a notice to that effect is earnestly solicited.

Please note that any amendments to the claims which have been made in this amendment, that have not been specifically noted to overcome a rejection based upon the prior art should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

If a telephone conference would be of value, the Examiner is requested to call the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge/credit any fee deficiencies or overpayments to Deposit Account No. 19-4293 (Order No. 11696.0052).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott D. Watkins", is written over the typed name.

Scott D. Watkins

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